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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,111	01/16/2004	Kurt Giger	032553-038	4992
21839	7590	06/02/2005	EXAMINER	
BURNS DOANE SWECKER & MATHIS L L P			ALSOMIRI, ISAM A	
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			3662	

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/758,111

Applicant(s)

GIGER, KURT

Examiner

Isam Alsomiri

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 12-18 is/are rejected.
- 7) ☒ Claim(s) 9-11 and 19 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8, 14, 16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Sasaki. With regard to claim 8, Sasaki teaches a method for detecting a measurement spot on an object being measured whose distance is to be determined, comprising; lighting the object being measured with the aid of a distance measuring instrument, using an optical radiation 6; detecting a spot created on the object being measured with aid of a photoelectric picture-taking system 8, 9 (see also column 3, lines 38-43); and delivering the detected spot to an evaluation unit for finding a differential value, and for showing detection results on an electronic display device (see column 4, lines 48-56).

With regard to claim 14, Sasaki teaches that the optical radiation originating in the object being measured is detected by a color camera, and only that portion of the picture corresponding to the wavelength spectrum of the introduced optical radiation is processed (via dichroic mirror 2).

With regard to claim 16, Sasaki teaches both distance measurement as well as the display of a scene. Therefore, it is inherent that Sasaki teaches that the evaluation

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of signals detected is effected with an evaluation unit and a display is effected on an electronic display device, both of which are provided on the device itself.

With regard to claim 18, Sasaki teaches that the optical radiation is laser radiation in a visible spectrum (see column 3, lines 17-18).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sasaki. With regard to claim 12, the use of a picture-taking system with monochromatic photosensitivity is well known in the art and it would have been obvious for Sasaki to use any type of sensor known for permitting photo-imaging. A sensor with monochromatic photosensitivity is simply a mere alternative to the sensor disclosed by Sasaki.

With regard to claim 13, Sasaki teaches the use of a dichroic mirror 2 which acts as an optical bandpass filter because it allows visible wavelength to pass through to the picture-taking system and reflects the distance-measurement radiation to the rangefinding system. Additionally, the use of a picture-taking system with monochromatic photosensitivity is well known in the art and it would have been obvious for Sasaki to use any type of sensor known for permitting photo-imaging. A sensor with

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monochromatic photosensitivity is simply a mere alternative to the sensor disclosed by Sasaki.

With regard to claim 15, Sasaki does not teach that the picture taking system is wirelessly connected to a separate display device. However, it would have been obvious to incorporate wireless capability as that is an attractive feature and is very well known in the art.

Claims 1-7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP Patent Application 0661519 to Sasaki in view of International Application PCT/GB99/03518 to Ball.

With regard to claim 1, Sasaki teaches 1 a distance measuring instrument having a sighting device, comprising: a transmitter 6 for emitting an optical radiation; a receiving lens 9 for receiving optical measurement radiation remitted or scattered by an object being measured', a receiver 8, located behind the receiving lens, for converting the optical measurement radiation into electrical measurement signals', and a signal processing system for comparing the measurement signals with reference signals to determine a distance from the object being measured and to make a distance result available to a user (see column 3, lines 35-36), wherein the sighting device includes: a photoelectric picture-taking system, which is connected to an electronic display device (see column 3, lines 38-43); and an evaluation unit for forming a differential value for pictures taken (see column 4, lines 48-56). Sasaki does not teach that the photoelectric picture-taking system of the sighting device and the electronic display device are

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disposed in a common housing which is equipped with a separate viewfinder lens for the photoelectric picture-taking system. However, Ball teaches a rangefinder equipped in a common housing with a picture-taking system and also teaches a separate viewfinder lens (see page 37, lines 20-26). It would have been obvious to incorporate the use of a viewfinder lens with the system taught by Sasaki as a means for allowing a user to manually sight an object to be measured.

With regard to claim 2, Sasaki teaches a picture-taking system but does not disclose a CMOS type picture sensing device. However, CMOS imaging is common and well known in the art and it would have been obvious for Sasaki to use a CMOS device with the picture taking system as a mere alternative to the sensor disclosed by Sasaki.

With regard to claim 3, Sasaki teaches the use of a dichroic mirror 2 which acts as an optical bandpass filter because it allows visible wavelength to pass through to the picture-taking system and reflects the distance-measurement radiation to the rangefinding system. Additionally, the use of a picture-taking system with monochromatic photosensitivity is well known in the art and it would have been obvious for Sasaki to use any type of sensor known for permitting photo-imaging. A sensor with monochromatic photosensitivity is simply a mere alternative to the sensor disclosed by Sasaki.

With regard to claim 4, Sasaki teaches the display of the scene in color; therefore, the use of a color camera chip, while not specifically disclosed, is inherently used by Sasaki. If it is not inherent, it would have been obvious as a mere alternative to the method of color-sensing disclosed by Sasaki.

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With regard to claim 5, Ball teaches that the system has a zoom function (see page 10, lines 2-3).

With regard to claims 6 and 17, Sasaki does not teach that the picture taking system is wirelessly connected to a separate display device. However, it would have been obvious to incorporate wireless capability as that is an attractive feature and is very well known in the art. Further, it would have been obvious for the separate device to be a palmtop or laptop computer because these are commonly known items used for viewing measured data.

With regard to claim 7, Sasaki teaches that a display for displaying pictures is disposed on the distance measuring instrument (see column 3, lines 38-43).

Allowable Subject Matter

Claims 9-11 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed March 17, 2005 have been fully considered but they are not persuasive. Regarding independent claims 1 and 8, applicant argues that Sasaki does not teach or suggest "a measurement spot created directly on an object to be measured. Rather, as taught by the Sasaki publication, the target prism is placed at the target to effect the measurement". However, Sasaki teaches "a beam is directed to

a target prism, the returning light passes along the same route back to the dichroic mirror..." (see col. 3 line 25+); therefore, it is clear that the target prism is the target which the spot is being created on, not as applicant explained "the target prism is placed at the target"; it is the target. Therefore, the rejections are maintained.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isam Alsomiri whose telephone number is 571-272-6970. The examiner can normally be reached on Monday-Friday 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on 571-272-6979. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Isam Alsomiri



May 30, 2005



THOMAS H. TARCZA
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